

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

THE WACKENHUT CORPORATION
Employer

and

Case No. 29-RC-9777

FEDERATION OF PRIVATE EMPLOYEES,
A DIVISION OF THE NATIONAL FEDERATION OF
PUBLIC AND PRIVATE EMPLOYEES, AFFILIATED
WITH DISTRICT 1, MARINE ENGINEERS
BENEFICIAL ASSOCIATION, AFL-CIO
Petitioner

DISTRICT 2A, TRANSPORTATION, TECHNICAL
WAREHOUSE, INDUSTRIAL AND SERVICE EMPLOYEES
UNION, AFFILIATED WITH THE AMERICAN
MARITIME OFFICERS
Intervenor¹

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before Jonathan Chait, a Hearing Officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned:

Upon the entire record in this proceeding, the undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.
2. The parties stipulated that The Wackenhut Corporation, herein the Employer, a domestic corporation, with its principal office and place of business located

¹ The names of the Employer, Petitioner and Intervenor appear as amended at the hearing. The Intervenor's request to intervene was granted on the basis of a current collective bargaining agreement between the Employer and the Intervenor covering the unit of employees involved herein. Neither the Employer nor the Intervenor contend that the current collective bargaining agreement bars the processing of the instant petition.

at 4200 Wackenhut Drive, Palm Beach Gardens, Florida, and with other facilities located at Aqueduct Racetrack, Ozone Park, New York, Belmont Park Racetrack, Elmont, New York, and Saratoga Racetrack, Saratoga Springs, New York, the facilities involved herein, is engaged in the business of providing security guard, valet parking and related services for various employers throughout the United States. During the past year, which period is representative of its annual operations generally, the Employer, in the course and conduct of its operation, provided valet parking services valued in excess of \$50,000 to the New York State Racing Association, an entity directly engaged in interstate commerce

Based on the stipulations of the parties, and the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organizations involved herein claim to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The parties stipulated, and I find, that the following unit is appropriate for the purposes of collective bargaining²:

All full-time and regular part-time valet parking employees of the Employer performing valet parking services at Aqueduct Racetrack, Ozone Park, New York, Belmont Racetrack, Elmont, New York and Saratoga Racetrack, Saratoga Springs, New York, excluding all office clerical employees, managers, guards and supervisors as defined in the Act.

² The parties stipulated that none of the employees in the bargaining unit is a jockey, trainer, groom or parimutuel betting agent.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote are employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States who are employed in the unit may vote if they appear in person or at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible to vote shall vote whether they desire to be represented for collective bargaining purposes by the Federation of Private Employees, a Division of the National Federation of Public and Private Employees, affiliated with District 1, Marine Engineers Beneficial Association, or District 2A, Transportation, Technical, Warehouse, Industrial and Service Employees Union, affiliated with the American Maritime Officers or by neither labor organization.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon*

Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, four (4) copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Regional Office, One MetroTech Center North-10th Floor (Corner of Jay Street and Myrtle Avenue), Brooklyn, New York 11201 on or before December 20, 2001. No extension of time to file the list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the nonposting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board,

addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570.

This request must be received by December 27, 2001.

Dated at Brooklyn, New York, December 13, 2001.

/s/ Alvin P. Blyer
Alvin P. Blyer
Regional Director, Region 29
National Labor Relations Board
One MetroTech Center North, 10th Floor
Brooklyn, New York 11201

280-7520